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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,128	09/30/2003	Nada Milosavljevic	49605-109902	5709
23644 7590 08/06/2010 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786				
EXAMINER				
RAPILLO, KRISTINE K				
ART UNIT		PAPER NUMBER		
3626				
NOTIFICATION DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

### Office Action Summary

**Application No.**

10/675,128

**Applicant(s)**

MILOSAVLJEVIC, NADA

**Examiner**

KRISTINE K. RAPILLO

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 2-6, 8-21, 23 and 26-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 7, 22, 24-25, 29 - 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/30/2003
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Notice to Applicant***

1. This communication is in response to the amendment submitted June 4, 2010. Claims 1, 7, and 22 have been amended. Claim 28 is cancelled (claims 2 – 6, 8 – 21, 23, and 26 – 27 were previously cancelled). Claims 32 – 35 are new. Claims 1, 7, 22, 24 – 25, and 29 – 35 are presented for examination.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 2, 4 – 22, 25 – 27, and 32 – 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell, herein after Campbell (U.S. Patent Number 6,047,259) in view of Iliff (U.S. Patent. No. 6,468,210).

With regard to claim 1 (Currently amended), Campbell teaches a computer-based, interactive method for facilitating the evaluation, diagnosis and treatment of a patient (column 2, lines 2 – 4), comprising the steps of:

(a) conducting a preliminary physical examination of the patient (column 7, lines 31 – 41) and making a preliminary diagnosis based on the preliminary physical examination that patient has a particular medical disorder (column 5, lines 48 – 51 and column 12, lines 48 – 55) where Campbell discloses a rule out list and tentative diagnosis;

(b) after the performance of step (a) entering into the computer system information identifying the particular medical disorder (column 4, lines 56 – 60) where a user can enter information through a keyboard and other input devices;

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(c) after the performance of step (b) outputting from the computer system information about the particular medical disorder (column 3, lines 44 – 47 and column 13, lines 58 – 65) and information identifying other medical disorders that might be confused with the particular medical disorder (Figure 9; column 7, lines 42 – 48; and column 16, line 66 through column 17, line 22) where a rule out list is displayed (the rule out list consists of medical disorders with the same or similar signs or symptoms);

(d) after the performance of step (b) prompting the user to further examine said patient for one or more predefined signs or symptoms that might be exhibited by one afflicted with the particular medical disorder (Figure 9; column 16, line 33 through column 17, line 37); and

Lliff teaches a method comprising: (e) after the performance of step (d), conducting a further examination of the patient and entering into the computer system information identifying those of the one or more predefined signs or symptoms exhibited by the patient (Figures 31, 32a, and 34; column 8, lines 5 – 19 where medical disorders are further defined by more specific symptoms); prompting the user to conduct a differential diagnosis of the patient based on the information identifying other medical disorders that might be confused with the particular medical disorder (column 6, lines 11 – 23; column 49, lines 55 – 65; and column 51, lines 2 – 15 where a differential diagnosis is performed to further identify the medical disorder of the patient); and, entering into the computer system information identifying those of the one or more predefined work up elements conducted on the patient (column 5, lines 10 – 21; column 9, lines 22 – 38; and column 10, lines 35 – 43 where laboratory tests and images (i.e. x-rays) can be performed to further assist in the diagnosis of a medical disorder).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method comprising: prompting the user to further examine said patient for one or more predefined signs or symptoms that might be exhibited by one afflicted with the particular medical disorder; entering into the computer system information identifying those of the one or more predefined signs or symptoms exhibited by the patient; prompting the user to conduct a differential diagnosis of the patient based on the information identifying other medical disorders that might be confused with the particular medical disorder; entering into the computer system information identifying those of the one or more predefined work up elements conducted on the patient; the treatment plan

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comprising one or more predefined elements based on the information identifying the particular medical disorder; and, entering into the computer system information identifying those of the one or more predefined treatment plan elements recommended for the patient as taught by Iliff, within the method of Campbell, with the motivation of providing a tool for a computerized medical diagnosis based on the signs and symptoms provided by or exhibited by a patient (column 1, line 66 through column 2, line 36).

With regard to claim 7 (Currently amended), Campbell and Iliff teach the method of claim 1.

Iliff teaches a method further comprising the step of transmitting the information about the particular medical disorder, the predefined signs or symptoms exhibited by the patient and the patient data to another user or to the patient's medical record (column 5, lines 35 – 43).

The motivation to combine the teachings of Campbell and Iliff is discussed in the rejection of claim 1, and incorporated herein.

With regard to claim 32 (New), Campbell and Iliff teach the method of claim 1.

Iliff teaches a method further comprising the step of: (f) prompting the user to conduct a differential diagnosis of the patient based on the information identifying other medical disorders that might be confused with the particular medical disorder (column 6, lines 11 – 23; column 49, lines 55 – 65; and, column 51, lines 2 – 15 where a differential diagnosis is performed to further identify the medical disorder of the patient).

The motivation to combine the teachings of Campbell and Iliff is discussed in the rejection of claim 1, and incorporated herein.

With regard to claim 33 (New), Campbell and Iliff teach the method of claim 32. Campbell teaches a method further comprising the steps of: (g) prompting the user to conduct a work up of said patient, the work up comprising one or more predefined elements based on the information identifying the particular medical disorder (Figure 10 and column 17, lines 45 – 52 where recommended therapies are displayed based on the medical disorder selected).

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Iliff discloses a method further comprising the step of (h) entering into the computer system information identifying those of the one or more predefined work up elements conducted on the patient (column 5, lines 10 – 21; column 9, lines 22 – 38; and column 10, lines 35 – 43 where laboratory tests and images can be performed to assist in the diagnosis of a medical disorder).

The motivation to combine the teachings of Campbell and Iliff is discussed in the rejection of claim 1, and incorporated herein.

With regard to claim 34 (New), Campbell and Iliff teach the method of claim 33. Campbell teaches a method further comprising the steps of: (i) prompting the user to recommend a treatment plan for the patient (column 7, lines 42 – 56 where a treatment protocol is recommended based on a tentative diagnosis), the treatment plan comprising one or more predefined elements based on the information identifying the particular medical disorder (column 17, lines 53 – 60); and (j) entering into the computer system information identifying those of the one or more predefined treatment plan elements recommended for the patient (column 2, lines 4 – 31).

With regard to claim 35 (New), Campbell and Iliff teach the method of claim 1. Campbell teaches a method further comprising the steps of: entering into the computer system data identifying the patient (column 7, lines 18 – 28); and simultaneously displaying on a display of the computer system the information about the particular medical disorder, the signs or symptoms exhibited by the patient, and the patient data (column 11, lines 11 – 29 and column 11, lines 46 – 49 where the patient information, signs and/or symptoms (i.e. observations), and medical disorders are displayed simultaneously).

4. Claims 1 – 2, 4 – 22, and 25 - 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell, herein after Campbell (U.S. Patent Number 6,047,259) in view of Dahlin et al., herein after Dahlin (U.S. Pub. No. 2004/0078215 A1) further in view of Chin et al., hereinafter Chin (U.S. Patent Number 6,632,042).

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With regard to claim 22 (Currently amended), Campbell teaches an apparatus for use in connection with providing health care to a patient suspected of having a medical disorder, comprising:

information prompting the user to further examine the patient for one or more predefined signs and/or symptoms associated with the respective medical disorder (Figure 9 and column 2, lines 4 – 31) where prompts or reminders are displayed to guide a user through a medical exam to aid in selection of a tentative diagnosis;

information prompting the user to recommend one or more predefined treatments that could be administered to treat the respective medical disorder (column 17, lines 46 – 55) where a treatment protocol is recommended to treat a tentative diagnosis;

at least one field for entry of patient data (Figure 4 and column 12, lines 13 – 18);

the user's observation that the patient exhibits one or more of the predefined signs and/or symptoms associated with the respective medical disorder (Figure 9; column 2, lines 4 – 31) where a user makes observations based on the examination and compares to predetermined observations;

the user's opinion that one or more of the predefined tests should be conducted to confirm that the patient is afflicted by the respective medical disorder (column 18, line 61 through column 19, line 52) where a therapy (treatment) screen is displayed which indicates products (i.e. medications) and services (interpreted as laboratory work or radiological images) to be performed; and

the user's opinion that one or more of the predefined treatments should be administered to treat the patient (column 18, line 61 through column 19, line 52) where a user can select a particular therapy to treat a patient.

Dahlin teaches an apparatus comprising:

a set of templates (Figures 3 – 19), each of the templates directed to a different medical disorder (paragraphs [0119] and [0124] where Dahlin discloses complain specific templates, thus different templates for different disorders), one of which medical disorders the patient has been preliminarily diagnosed as being afflicted with based on a preliminary physical examination of the patient (as taught by Campbell in figures 9 and 10 where different medical disorders are illustrated), each of the templates provided with:

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information prompting the user to conduct one or more predefined tests that could be used to determine the presence or severity of the respective medical disorder (paragraphs [0020], and [0093]);

wherein each of said templates is adapted for annotation by a user to indicate (paragraph [0105]);

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an apparatus wherein each of said template is printed on paper encased within transparent plastic as taught by Chin, within the apparatus of Campbell and Dahlin, with the motivation of providing a sheet protector to enhance the functionality of a template by enabling a user to directly annotate of the protective cover (column 4, lines 57 – 63 and column 5, lines 8 – 13). Campbell and Dahlin disclose allowing a user to make annotations on a computerized template, whereas the invention of Chin allows a user to annotate on a transparent cover to prevent errors on the original protected sheet.

In regard to claim 24 (Previously Presented), Campbell, Dahlin, and Chin teach the apparatus of claim 22.

Chin teaches an apparatus wherein one of the templates can be removed from the set of templates without damaging the remaining templates (column 8, lines 8 – 14 and column 10, lines 51 – 56) where the templates enclosed in transparent plastic can be assembled in a 3 ring binder or other binding system.

The motivation to combine the teachings of Campbell, Dahlin, and Chin is discussed in the rejection of claim 22, and incorporated herein.

With regard to claim 25 (Previously Presented), Campbell, Dahlin, and Chin teach the apparatus of claim 22. Dahlin teaches an apparatus wherein each of the templates is printed (paragraph [0124]), however, Dahlin fails to teach where the template is printed on paper encased in transparent plastic.

Chin teaches an apparatus wherein each of said template is printed on paper encased within transparent plastic (Chin: column 3, lines 24 – 28).

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The motivation to combine the teachings of Campbell, Dahlin, and Chin is discussed in the rejection of claim 22, and incorporated herein.

With regard to claim 29 (Previously Presented), Campbell, Dahlin, and Chin teach the apparatus of claim 22.

Chin teaches an apparatus wherein the set of templates is bound into a handbook (column 8, lines 8 – 14 and column 10, lines 51 – 56) where the templates enclosed in transparent plastic can be assembled in a 3 ring binder or other binding system.

The motivation to combine the teachings of Campbell, Dahlin, and Chin is discussed in the rejection of claim 22, and incorporated herein.

With regard to claim 30 (Previously Presented), Campbell, Dahlin, and Chin teach the apparatus of claim 22. Campbell teaches an apparatus wherein the apparatus further comprises one or more templates including reference data comprising normal values or value ranges for the one or more tests (Figure 5) where a user can indicate, for example, whether a patient's temperature is normal based on the range of subnormal through elevated.

With regard to claim 31 (Previously Presented), Campbell, Dahlin, and Chin teach the apparatus of claim 22.

Dahlin teaches an apparatus wherein the apparatus further comprises a vision chart (paragraphs [0118], [0119], and [0124]). Although Dahlin does not explicitly disclose a vision chart, it would be obvious to include a vision chart when a patient's chief complaint involves the eyes (i.e. blurred vision).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an apparatus wherein the apparatus further comprises a vision chart as taught by Dahlin, within the method of Campbell and Chin, with the motivation of providing an electronic system for documenting the results of a physical examination and outputting a plurality of medical problems based on the examination (paragraph [0019]).

***Response to Arguments***

5. Applicant's arguments filed June 4, 2010 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed June 4, 2010.

6. The Applicant argues claims 1, 7, and 32 - 35 are allowable because Campbell does not teach prompting a user to further examine a patient after a diagnosis has been made, nor does Campbell teach plural examinations. The Examiner respectfully disagrees and submits Campbell discloses prompting a user to further examine a patient as described below. Campbell is directed to an interactive method and system for managing physical exams, diagnosis, and treatment protocols in a health care practice. The method and system conducts an interactive diagnosis with context sensitive questions (i.e. a preliminary diagnosis is made based on a physical examination, then additional questions are posed relating to the preliminary or initial diagnosis) and possible diagnosis. The examination uses predetermined observations on a computer display screen, where the user selects among the observations to record abnormal findings; the system updates the patient's record and generates additional context sensitive questions. The user response to the questions leads to a generation of a list of possible diagnoses. The user can select a tentative diagnosis from a "rule out" list. The system will then update a list of abnormal findings to show whether they are resolved by the selected diagnosis (column 1, line 62 through column 2, line 38). Thus providing a "rule out" list prompts the user to further refine the preliminary or initial diagnosis generated from the initial physical examination. In addition, the Examiner respectfully submits that Campbell discloses performing plural examinations as discussed above.

7. The Applicant argues claims 22, 24 – 25, and 29 – 31 are allowable because Campbell does not teach a template prompting a user to further examine a patient after a diagnosis has been made. The Examiner respectfully submits that Dahlin, not Campbell, was used to support the use of a template. Dahlin discloses an electronic template which is used to document medical findings of a physical examination where a user can select a part of the body to be examined (paragraph 20). A plurality of

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medical problems will be displayed based on the selection. Thus, a template is disclosed which prompts the user in further diagnosing a patient.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 3:30 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on 571-272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. K. R./

Examiner, Art Unit 3626

/Robert Morgan/

Supervisory Patent Examiner, Art Unit 3626